



## **NATIONAL CRIME PREVENTION AND PRIVACY COMPACT COUNCIL**

### **Fingerprint Submission Requirements**

**AGENCY:** National Crime Prevention and Privacy Compact Council.

**ACTION:** Notice of approval of the Colorado proposal.

**SUMMARY:** The National Crime Prevention and Privacy Compact Council (Compact Council) approves a proposal submitted by the Colorado Bureau of Investigation requesting access to the Interstate Identification Index (III) System, maintained by the Federal Bureau of Investigation (FBI), on a delayed fingerprint submission basis for the sole purpose of conducting criminal history record checks of individuals, to include volunteers, for limited critical positions, as defined by the state, in response to the coronavirus (COVID-19) pandemic.

**FOR FURTHER INFORMATION CONTACT:** Inquiries may be addressed to Mrs. Chasity S. Anderson, FBI Compact Officer, Biometric Technology Center, 1000 Custer Hollow Road, Clarksburg, West Virginia 26306, telephone 304-625-2803.

**SUPPLEMENTARY INFORMATION:** Title 28, Code of Federal Regulations (CFR), part 901, specifically § 901.3, gives authority to the Compact Council, established by the National Crime Prevention and Privacy Compact Act of 1998 (Compact), to approve proposals for delayed submission of fingerprints supporting requests for III records by

agencies authorized to access and receive criminal history records under Public Law 92-544. The proposals must fully describe the emergency nature of the situation in which delayed submission authority is being sought, the risk to health and safety of the individuals involved, and the reasons why the submission of fingerprints contemporaneously with the search request is not feasible. The Colorado proposal makes such a request when conducting criminal history record checks of individuals, to include volunteers, for limited critical positions that have access to our nation's most vulnerable populations such as children, the elderly, and the disabled. Due to the national COVID-19 emergency and limiting close contact with another person, as well as the unavailability or limited availability of noncriminal justice fingerprinting services, the Colorado proposal temporarily allows for the delayed submission of fingerprints during the COVID-19 pandemic.

The Colorado proposal was submitted by e-mail dated March 27, 2020, and approved by the Compact Council on November 4, 2020, pursuant to 28 CFR 901.2 and 901.3. Access to the III System to conduct name-based criminal history record checks, followed by fingerprint submissions, provides a responsive and timely avenue to determine whether an applicant presents a risk to vulnerable populations. Pursuant to the Colorado proposal, such name-

based checks must be followed by the submission of the applicant's fingerprints to the FBI as soon as possible, but not later than 180-calendar days from the date of the preliminary III name-based check, or 90-calendar days from the expiration of the state's emergency declaration, whichever occurs sooner. Should an individual refuse or fail to submit the follow-up fingerprints in the time frame specified by the Council, the individual will no longer be permitted to hold the position for which the preliminary name-based criminal history record check was conducted.

**AUTHORITY:** 34 U.S.C. 40316.

Dated: October 27, 2021.

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**Leslie Moore,**

*Compact Council Chairman.*

**PROPOSAL FROM COLORADO TO THE  
NATIONAL CRIME PREVENTION AND PRIVACY COMPACT COUNCIL  
UNDER THE FINGERPRINT SUBMISSION REQUIREMENTS RULE**

As a result of the Coronavirus pandemic, and the declaration of a state of emergency, the Colorado Bureau of Investigation requests temporary approval under the

National Crime Prevention and Privacy Compact Council's (Council) Fingerprint Submission Requirements Rule (Rule) (Title 28, Code of Federal Regulations [CFR], Part 901), to access the Interstate Identification Index (III) on a delayed fingerprint submission basis. This proposal is for the sole purpose of conducting criminal history record checks of individuals, to include volunteers, for limited critical positions, as defined by the state, in response to the Coronavirus pandemic (i.e., healthcare workers, child care workers, etc.) as specifically identified in a state statute previously approved pursuant to Public Law (Pub. L.) 92-544. In the absence of an approved Pub. L. 92-544 state statute, a state may utilize the National Child Protection Act/Volunteers for Children Act for those positions that the covered individual has responsibility for the safety and well-being of children, the elderly, or individuals with disabilities.

In addition, the state recognizes the risk associated with a name-based check; however, due to the national pandemic and the initiative to limit close contact with another person, as well as the unavailability or limited availability of noncriminal justice fingerprinting services, to protect the health and safety of children or other vulnerable populations it is imperative that a preliminary III name-based check be conducted.

The use of the preliminary III name-based check shall be conducted by the State Identification Bureau or CJIS Systems Agency and will not replace the requirement for a noncriminal justice fingerprint-based background check to be conducted. The state will continue to be responsible for submitting the follow-up fingerprints in the time frame specified by the Council. In addition, the state will verify the use of the III name-based check and the time frame established for the delayed submission of fingerprints, in this situation, does not conflict with existing state laws.

Pursuant to the Privacy Act of 1974 (Title 5, United States Code, Section 552a), the individual must be provided with an adequate written FBI Privacy Act statement when he/she provides the required personal information to perform the III name-based check. In addition, the individual must be informed in writing of his/her rights pursuant to 28 CFR 50.12, including the right to access and amend his/her criminal history records.

An individual will be required to be fingerprinted as soon as possible, but not later than 180-calendar days from the date of the preliminary III name-based check, or 90-calendar days from the expiration of the state's emergency declaration, whichever occurs sooner. Once obtained, the fingerprints must be immediately submitted to the state repository which will either positively identify

the fingerprinted subject or will forward the fingerprints to the FBI. In addition, the agency must advise the individual that fingerprints are required to be submitted even if the individual is no longer employed or licensed.

Should an individual refuse or fail to submit the follow-up fingerprints in the time frame specified by the Council, the individual will no longer be permitted to hold the position for which the preliminary III name-based check was conducted. Should this occur, the agency must abide by the Council's policy guidance for use of the Rule, as appropriate.

Approvals to utilize this proposal will expire 30-calendar days from the date the state cancels its emergency declaration.

If the Council does not approve this temporary proposal during its next public-held meeting, this temporary proposal will expire immediately.